

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Confirmation No.: 5690

Ilana (Helena) NATHAN et al.

Date: June 19, 2007

Serial No.: 10/509,405

Group Art Unit: 1614

Filed: September 24, 2004

Examiner: Ronald T. Niebauer

**For: COMPOSITIONS AND METHODS FOR TREATING AND PREVENTING  
NECROSIS**

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**VIA EFS-WEB**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**RESPONSE TO APRIL 16, 2007 OFFICE COMMUNICATION**

Sir:

This is a response to the Office Communication mailed April 16, 2007 regarding the above-identified application.

According to the Office Communication, the Reply filed on January 25, 2007 to the Office Action mailed on September 26, 2006 is not fully responsive to the Office Action. The Communication states, further, that the bases for the objections to the Reply is that the identification of the elected Group, the elected species and the claims readable [there]on have not been clearly identified. The information provided below is believed to be completely responsive to the Examiner's various Restriction/Election requirements as set forth in the previous Office Action and in the Office Communication and entry of this Response into the file of the application is, therefore, respectfully requested.

**Restriction Requirement**

In response to the Restriction Requirement set forth in the September 26, 2006 Office Action, applicants confirm the election of Group I, i.e., claim 2, drawn to *in vivo* treatment of cell necrosis.

### **Species Election Requirement**

As pointed out in the April 16, 2007 Office Communication, the previous Office Action issued in this case includes four 'sets' [(i) - (iv)] of species election requirements. Due to a misunderstanding on the part of applicants' representative, only one species election was included in the January 25, 2007 Response. This was due to the fact that applicants' representative understood the Examiner to be requiring an election of one species from all of the four groups of species listed, not one species from each of the listed groups of species. Applicants thus regret any confusion caused by the incomplete response contained in the January 25, 2007 submission. Provided below, therefore, is applicants' species election for each of the species (i) - (iv):

#### **Species (i) - Those species encompassing any elastase enzyme inhibitor**

According to the Office Communication, the Examiner is seeking the election of a single species of elastase enzyme inhibitor, for example, from the possibilities listed on p. 7 of applicants' specification.

In response, applicants elect Elastase Inhibitor III (MeOSuc-Ala-Ala-Pro-Val-CMK). All of the claims are believed to be generic to the elected species.

#### **Species (ii) - Those species encompassing any inhibitor of apoptosis**

According to the Office Communication, the Examiner is seeking the election of a single inhibitor of apoptosis, for example, from the possibilities listed on p. 10 of applicants' specification.

In response, applicants elect the inhibition of apoptosis by the regulation of expression by pro- and anti-apoptotic proteins. The methodology of such regulation was well known among those having ordinary skill in this field of art at the time the invention was made, as evidenced in Li et al., *Acta. Anaesthesiol Sin.*, 38(4), pp. 207-215 (2000) cited in the paragraph bridging pp. 10-11 of applicants' specification. All of the claims are believed to be generic to the elected species.

**Species (iii) - Those species of cell types listed in claims 4 and 8**

According to the Office Communication, the Examiner is seeking the election of a single cell type, for example, from the possibilities listed in applicants' claims 4 and 8.

In response, applicants elect neuronal cells. Both claims 4 and 8 are specific to the elected cell type. The remaining claims (nos. 1-3, 5-7 and 9-14) are believed to be generic.

**Species (iv) - Those species of diseases listed in claims 5 and 9**

According to the Office Communication, the Examiner is seeking the election of a single species of disease, for example, from the possibilities listed in claims 5 and 9.

In response, applicants elect Dementia as the disease. Both claims 5 and 9 are specific to the elected disease. The remaining claims (nos. 1-4, 6-8 and 10-14) are believed to be generic.

The elections set forth above are believed to be completely responsive to the requirements set forth in the Office Actions dated September 25, 2006 and April 16, 2007. If the Examiner requires any further election or clarification, he is respectfully invited to telephone applicants' representative at the number below in order to discuss any such further requirements.

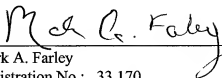
No fee, except a fee extending the date for filing this Response, is believed to be due with this submission. If any fee is, however, due, authorization is hereby provided to charge the required amount to our Deposit Account No. 15-0700.

**CONTINGENT EXTENSION REQUEST**

If this communication is filed after the shortened statutory time period had elapsed and no separate Petition is enclosed, the Commissioner of Patents and Trademarks is petitioned, under 37 C.F.R. § 1.136(a), to extend the time for filing a response to the outstanding Office Action by the number of months which will avoid abandonment under 37 C.F.R. § 1.135. The fee under 37 C.F.R. § 1.17 should be charged to our Deposit Account No. 15-0700.

THIS CORRESPONDENCE IS BEING  
SUBMITTED ELECTRONICALLY  
THROUGH THE UNITED STATES  
PATENT AND TRADEMARK OFFICE  
EFS FILING SYSTEM  
ON JUNE 19, 2007

Respectfully submitted,



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